IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 6833 of 2004

Mr Suresh B Bhujbal...petitioner

vs

The State of Mah and ors..Respondents

Mr Shiv Motariya for petitioner

Mr. V.P Malvankar AGP for respondents

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 8.l0.2004

P.C:

Rule. Respondents waive service. By consent, rule is made returnable forthwith.

2. This petition is preferred against the judgment and order dated l5.ll.l980 passed by the Maharashtra Administrative Tribunal, (MAT) in Original Application No.l082 of 2002. It appears that the petitioner who was working as a junior clerk -tracer in the Public Works Department was due for time bound promotion after completion of twelve years continuous service or from the date of the Scheme of Time Bound Promotion was given effect whichever is later. As per Government Resolution, GAD dated 8.6.l995 the Time Bound Promotion Scheme was given effect from l.4.l994. Having completed l2 years continuous service in the year l992, the

petitioner ought to have been given time bound promotion with effect from l.4.l994. However, the respondents by their letter dated 5.5.l999 granted such promotion to the petitioner four years late i.e. with effect from l.4.l998.The petitioner made a representation to the Superintending Engineer,Satara, Circle seeking time bound promotion from l.4.l994 but the said representation came to be rejected by letter dated l9.3.2002 stating that the petitioner was not fit for time bound promotion in view of assessment of his Confidential Record for the period l989-90 to l993-94. The petitioner therefore approached the MAT seeking direction to the respondents to grant him time bound promotion with effect from l.l0.l994. The main contention of the petitioner before the tribunal was that no adverse remarks were communicated to him for the relevant period and hence the so called adverse remarks ought to have been ignored while assessing him for time bound promotion.The MAT by the impugned order dated l3.ll.2003 directed the respondents to communicate the adverse remarks for the relevant period to the petitioner and to take decision regarding the adverse remarks after considering the representation made by the petitioner on the said adverse remarks.

3. We have heard the learned counsel for the parties. The learned AGP appearing for the respondents has not disputed that the adverse remarks for the years l989-90 and l993-94 have not been communicated to the petitioner till date. The whole case of the petitioner is based on the fact that the adverse remarks were not communicated to him. The submission of the petitioner is that the uncommunicated adverse remarks cannot be relied upon and same ought to have been ignored while considering the case of the petitioner for time bound promotion. The object and purpose underlying the communication of adverse remarks is to afford an opportunity to the employee to improve his performance , conduct and character, as the case may be. Adverse remarks should not be understood in terms of punishment but it should be for the advancement of the officer concerned so that he can improve in his service career. The whole object of the adverse remarks will be lost if they are not communicated to the officer at all or communicated after inordinate delay. In the present case the adverse remarks for the year l989-90 and l993-94 were not communicated to the petitioner till this date. This does not seem to be any justification for not communicating the adverse remarks to the

petitioner in the present case was inordinate and cannot be approved and in our opinion, no purpose would be served in asking the petitioner to make representation against the adverse remarks which were reported a decade ago. In the instant case the petitioner is clearly entitled to the reliefs for time bound promotion which was denied to him solely on the basis of uncommunicated adverse remarks. Therefore we quash and set aside the order of the tribunal and allow the Original Application in terms of prayer clauses (a) and (b) excluding bracketed portion. The prayer clauses (a) and (b) read as under:

> "(a) This Hon'ble Tribunal may be pleased to direct the respondent to give time bound promotion scale with effect from l.4.2004 when the applicant was due as per scheme
>
> (b)This Hon'ble tribunal may be pleased to direct the respondent to ignore the uncommunicated confidential report of years 89 to 90 , 93 to 94, (which are heard to be adverse remark, in further future service career of the applicant)"

4. Petition is accordingly disposed of with

no order as to costs.